

ORIGINAL

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CV 08

2331

UNITED STATES OF AMERICA,

Plaintiff,

v.

APPROXIMATELY \$104,994 IN UNITED
STATES CURRENCY,

Defendant.

No. 08-

COMPLAINT FOR FORFEITURE

NATURE OF THE ACTION

1. This is a judicial forfeiture action, as authorized by 21 U.S.C. § 881(a)(6), involving the seizure of defendant approximately \$104,994 in United States Currency ("defendant \$104,994") which was seized as money furnished or intended to be furnished by a person in exchange for a controlled substance, or money traceable to such an exchange, or money used or intended to be used to facilitate a violation Subchapter I, Chapter 13 of Title 21 United States Code.

JURISDICTION AND VENUE

2. This Court has jurisdiction under 28 U.S.C. §§ 1345 and 1355(a), and 21 U.S.C.

FILED
05 MAY -6 PM 1:07
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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1 § 881(a)(6).

2 3. This action is timely filed in accordance with 18 U.S.C. § 983(a)(3)(A).

3 4. Venue in this Court is proper because defendant \$104,994 was seized in the
4 Northern District of California. 28 U.S.C. §§ 1355(b) and 1395.

5 5. Intra-district venue is proper in the San Francisco Division within the
6 Northern District of California.

7 PARTIES

8 6. Plaintiff is the United States of America.

9 7. Defendant is approximately \$104,994 in United States Currency.

10 FACTS

11 8. On or about November 5, 2007, TSA agents discovered a large amount of United
12 States Currency in the carry-on luggage of Todd Donald Dunphy, and TSA notified DEA.

13 9. On or about November 6, 2007, Special Agent ("S/A") Willie Byrd conducted a
14 NCIC check on Dunphy, which revealed that Dunphy has two prior drug convictions.

15 10. On November 27, 2007, DEA received detailed information from a confidential
16 informant regarding suspicious travel. Todd Donald Dunphy ("Dunphy") was traveling from
17 Honolulu, Hawaii, to San Francisco International Airport ("SFO") on United Airlines Flight #72
18 with one piece of checked luggage. Dunphy had paid \$449 in cash for a round-trip ticket from
19 Honolulu to San Francisco on November 27, 2008, and he was scheduled to arrive at SFO on
20 November 28, 2008, at approximately 2:33 p.m.

21 11. On November 28, 2007, United Airline flight #72 arrived at gate 80 at
22 approximately 2:43 p.m. Agents from DEA Task Force 2 observed Dunphy deplane.

23 12. Dunphy was carrying a large black and red duffle bag and was walking at a very
24 fast pace.

25 13. DEA Task Force 2 agents maintained foot surveillance as Dunphy went through
26 the secured check point exit, proceeded past the escalators that lead downstairs to the baggage
27 claim carousels, and proceeded up two escalators toward the Air Train platform.

28 14. S/A Willie Byrd and Task Force Agent ("TFA") Steve Maes approached Dunphy

1 and identified themselves. TFA Maes advised Dunphy that he was not under arrest and was free
2 to go.

3 15. TFA Maes asked Dunphy if he would answer some questions and Dunphy said
4 "yes."

5 16. TFA Maes asked Dunphy about his travel itinerary. Dunphy stated that he had
6 arrived on a flight from Hawaii and was in the San Francisco Bay area to film a martial arts movie
7 called Human Weapon. Dunphy stated the movie was being filmed in the East Bay area.

8 17. When asked, Dunphy was unable to provide agents with information concerning
9 the date, time, or location of the filming.

10 18. TFA Maes asked Dunphy if he had been arrested in the past. Dunphy said "no."

11 19. Dunphy subsequently admitted that he had been arrested on a marijuana charge.

12 20. TFA Maes asked Dunphy if he had been arrested for any other crime. Dunphy
13 said "no."

14 21. TFA Maes asked Dunphy if he currently had illegal drugs or a large amount of
15 U.S. Currency in his possession. Dunphy said "no."

16 22. TFA Maes and S/A Byrd informed Dunphy that they detected the odor of
17 marijuana, and they again asked Dunphy if he had any marijuana, illegal drugs, or large amounts
18 of currency in his possession. Dunphy said "no."

19 23. TFA Maes and S/A Byrd told Dunphy that the odor of marijuana was strong and
20 was emanating from his duffle bag. TFA Maes asked Dunphy for consent to search his person
21 and his luggage for U.S. currency or illegal narcotics. Dunphy said "yes."

22 24. S/A Byrd first searched Dunphy's person and did not locate any illegal drugs or
23 large amounts of U.S. Currency.

24 25. S/A Byrd then searched the main compartment of Dunphy's fanny pack and found
25 a bundle of U.S. Currency bound with rubber bands. TFA Maes asked Dunphy how much money
26 he had in his possession, and Dunphy told him "four thousand."

27 26. S/A Byrd searched the secondary compartment of Dunphy's fanny pack and
28 found approximately 43.3 grams of marijuana.

1 27. S/A Byrd continued by searching the main compartment of Dunphy's duffle bag
2 and found two unaddressed large white Fed Ex fiber envelopes. S/A Byrd opened both Fed Ex
3 envelopes and found that each contained numerous large bundles of U.S. Currency bound with
4 rubber bands.

5 28. S/A Byrd opened the side compartment of Dunphy's duffle bag and found a third
6 large unaddressed white Fed Ex fiber envelope that was already open. Inside the envelop, S/A
7 Byrd observed numerous large bundles of U.S. Currency bound with rubber bands.

8 29. TFA Maes asked Dunphy how much money he had in his possession, and Dunphy
9 told him "hundred thousand."

10 30. The packaging of defendant \$104,994 is consistent with that used for, or from, the
11 sale of illegal controlled substances.

12 31. TFA Maes inquired about the U.S. Currency. Dunphy explained that he was a
13 model/actor/property owner, and he told the agents that the money was for the purchase of land in
14 Laytonville, CA.

15 32. S/A Byrd asked Dunphy how much money he declared on his taxes last year, and
16 Dunphy stated "My CPA does my taxes; I don't know." S/A Byrd asked Dunphy how much
17 money he made a year. Dunphy stated "I don't know, but I made a lot."

18 33. S/A Byrd told Dunphy that he was going to seize the currency pending further
19 investigation. Dunphy was given a receipt for the money.

20 34. At approximately 3:15 p.m. TFA Marty Mahon cleared an unoccupied area of the
21 airport with his certified narcotic detection canine "Dugan." TFA Mahon secreted defendant
22 \$104,994 in the unoccupied area and had canine Dugan perform a systematic search of the area.
23 During the search, Canine Dugan made a positive alert to defendant \$104,994, which was an
24 indication to TFA Mahon that the odor or narcotics was emanating from defendant \$104,994.
25 Canine Dugan is certified to detect marijuana, methamphetamine, cocaine, and heroin.

26 35. The denominations of the defendant \$104,994 were: 400 x \$100 dollar bills; 156 x
27 \$50 dollar bills; 2,800 x \$20 dollar bills; 97 x \$10 dollar bills; 44 x \$5 dollar bills; 4 x \$1 dollar
28 bills.

1 36. The denominations of defendant \$104,994 are consistent with those used for, or
2 from, the sale of illegal controlled substances.

3 37. On or about April 5, 2008, agents with the Hawaii Airport Task Force executed a
4 federal search warrant at Dunphy's residence at 2166 Halakau St., Hololulu, HI. A search of the
5 premises revealed approximately three pounds of processed marijuana, numerous plastic bags
6 containing drug residue, and approximately \$242,906 in U.S. Currency, which is currently
7 pending administrative forfeiture.

8 38. On or about April 22, 2008, Dunphy and David Saccullo were arrested for
9 conspiracy to distribute more than fifteen (15) pounds of marijuana.

10 39. Saccullo admitted that in March 2008 he had met Dunphy in California and
11 purchased 30 pounds of marijuana from a man named "Red." Saccullo admitted that he and
12 Dunphy had packaged the marijuana and shipped it to an address in Hawaii, which was provided
13 by Dunphy.

14 40. Saccullo admitted that Dunphy had paid him \$10,000 for assisting Dunphy with a
15 total of three shipments that were made between March and April 2008.

16 41. Saccullo admitted that in April 2008, he met "Red" for a second time at Dunphy's
17 direction. Saccullo admitted that he packaged 15-20 pounds of marijuana and shipped it to
18 Honolulu, HI.

19 42. Saccullo stated that he paid \$40,000 for the marijuana and would be reimbursed by
20 Dunphy.

21 43. A federal criminal complaint was filed against Dunphy and Saccullo on April 23,
22 2008.

23 44. Due to the totality of the circumstances, defendant \$104,994 in United States
24 Currency was seized as money furnished or intended to be furnished by a person in exchange for a
25 controlled substance, or traceable to such an exchange, or money used or intended to be used to
26 facilitate a violation of Subchapter I, Chapter 13 of Title 21 United States Code. Specifically,
27 based on the training and experience of the Task Force agents, the totality of the circumstances on
28 which the seizure was based included the denominations of the currency, packaging of the

1 currency in multiple bundles with rubber bands, no verification of the source of the currency, prior
2 drug arrests and drug convictions, untruthful statements to agents concerning his prior drug arrest
3 record, untruthful statements about his possession of drugs, untruthful statements about his
4 possession of large amounts of currency, differing statements about his employment to law
5 enforcement authorities, the positive canine alert, airline tickets purchased in cash on the day
6 before travel to a drug source city. Additionally, the circumstances surrounding the subsequent
7 search of Dunphy's house--including the discovery and seizure of large quantities of marijuana,
8 drug paraphernalia, and U.S. Currency--the arrest of Dunphy for conspiracy to distribute more
9 than 15 pounds of marijuana, and the admissions of his alleged co-conspirator all lend further
10 support to the conclusion that the defendant \$104,994 was furnished or intended to be furnished
11 by a person in exchange for a controlled substance, or traceable to such an exchange, or money
12 used or intended to be used to facilitate a violation of Subchapter I, Chapter 13 of Title 21 United
13 States Code.

14 VIOLATION

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16 45. The United States incorporates by reference the allegations in paragraphs one
17 through 44 as though fully set forth.

18 46. Section 881(a)(6) of Title 21 of the United States Code, provides for the forfeiture
19 of all money furnished or intended to be furnished by any person in exchange for a controlled
20 substance or listed chemical in violation of Subchapter I, Chapter 13 of Title 21 United States
21 Code, all proceeds traceable to such an exchange and all money used or intended to be used to
22 facilitate any violation of Subchapter I, Chapter 13 of Title 21 United States Code.

23 47. In light of the foregoing, defendant \$104,994 in United States Currency is subject to
24 judicial forfeiture.

25 * * * * *

26 WHEREFORE, plaintiff United States of America requests that due process issue to
27 enforce the forfeiture of defendant \$104,994; that notice be given to all interested parties to appear
28 and show cause why forfeiture should not be decreed; that judgment of forfeiture be entered; that

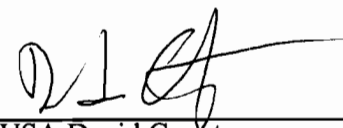
1 the Court enter judgment forfeiting defendant \$104,994; and that the United States be awarded
2 such other relief as may be proper and just.

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4 Respectfully submitted,

5 JOSEPH P. RUSSONIELLO
6 United States Attorney

7 Dated: May 5, 2008

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9 STEPHANIE M. HINDS
10 Assistant United States Attorney

11 Assigned to: 
12 AUSA David Countryman
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1 VERIFICATION

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3 I, Willie Byrd, state as follows:

4 1. I am a Special Agent with the Drug Enforcement Administration Task Force,
5 United States Department of Justice, and am the case agent. As such, I am familiar with the facts,
6 and the investigation leading to the filing of this Complaint for Forfeiture.

7 2. I have read the Complaint and believe the allegations contained in it to be true.

8 * * * * *

9 I declare under penalty of perjury that the foregoing is true and correct. Executed this 05
10 day of MAY, 2008, at San Francisco International Airport, in California.

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12 
13 WILLIE BYRD
14 Special Agent
15 Drug Enforcement Administration
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